IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

SATURDAY, THE 18TH AUGUST 2007 / 27TH SRAVANA 1929

Bail Appl..No. 5034 of 2007()

CRIME NO.374/07OF PALA POLICE STATION
CRMP.1622/2007 of DISTRICT COURT, KOTTAYAM

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PETITIONER/ACCUSED NO.4

MICHALE JOSEPH,S/O. JOSEPH,
AGED 60 YEARS, KUNNAKKAD HOUSE,
PAYAPPAR,PALA.

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HONOURABLE HIGH COURT OF KERALA
AT ERNAKULAM REP. BY THE SUB INSEPCTOR OF POLICE,
PALA POLICE STATION.

BY PUBLIC PROSOECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 18/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5034 of 2007

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Dated this the 18th day of August, 2007

O R D E R

Application for anticipatory bail. The petitioner is the 4th accused. Altogether there are four accused persons now. A crime has been registered, inter alia, under Sections 120B and 468 I.P.C. The said crime has been registered on the basis of a complaint filed before the learned Magistrate and referred by the learned Magistrate under section 156(3) Cr.P.C. Investigation is pending. The petitioner apprehends imminent arrest.

2. The crux of the allegations is that the wife of the first accused is employed abroad. He continues in India. He allegedly entered into a criminal conspiracy to transfer an item of property in the name of his wife to the second accused. It is alleged that the first accused, with the help of an unidentified lady, who allegedly impersonated as his wife, got a document executed in the name of the second accused. The third accused having allegedly identified the executant. Later the second accused is alleged to have assigned the property to the petitioner herein/A4.

4. The learned counsel for the petitioner submits that at any rate and in any view of the matter it cannot lightly be assumed that the petitioner/A4, the subsequent transferee from A2, had any contumacious knowledge or intention in taking assignment from the second accused. Absolutely nothing has been shown to exist except that the petitioner is the present owner as per the transfer effected by the transferee to implicate the petitioner. The learned counsel for the petitioner, in these circumstances, submits that the petitioner does not deserve to endure the trauma of arrest and incarceration in prison.

5. The learned Prosecutor does not seriously oppose the application, but submits that the grant of anticipatory bail to the petitioner/A4 may not be reckoned as a sufficient circumstance for grant of identical relief to A1 to A3. I find the apprehension to be totally unjustified. The role of A1 to A3 is different from the alleged role of A4. I have no reason to assume that grant of anticipatory bail to A4 will not in any way sufficient to justify grant of anticipatory bail to the other accused persons. Their claims will have to be considered on merits.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 25.8.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that he executes a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 30.8.2007 and 31.8.2007 and thereafter on all Mondays between 10 a.m. and 12 noon for a period of one month and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 25.8.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 25.8.2007 as directed in clause (1) above, he shall be released on bail on his executing

a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 25.8.2007.

(R. BASANT)
Judge

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